

Message Text

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INFO OCT-01 IO-12 ADP-00 INRE-00 EURE-00 CIAE-00 DODE-00

PM-09 H-02 INR-10 L-03 NSAE-00 NSC-10 PA-03 RSC-01

PRS-01 SS-15 USIA-12 SCI-06 SCEM-02 NEA-10 GAC-01

TRSE-00 MBFR-03 SAJ-01 AEC-11 AECE-00 EB-11 RSR-01

ACDA-19 /169 W

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P R 101440 Z APR 73

FM AMEMBASSY BONN

TO SECSTATE WASHDC PRIORITY 4394

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY MOSCOW

USMISSION NATO BRUSSELS

USMISSION BERLIN

USMISSION USUN NEW YORK

USMISSION EC BRUSSELS

USMISSION IAEA VIENNA

C O N F I D E N T I A L SECTION 01 OF 02 BONN 05221

E. O. 11652: GDS

TAGS: PFOR, PARM, GW, WB, IAEA, EEC

SUBJECT: FRG INTEREST IN EXTENDING NPT AND VERIFICATION
AGREEMENT TO BERLIN

SUMMARY: AT BONN GROUP MEETING ON APRIL 5, FOREIGN OFF-
ICE REP (BRAEUTIGAM) SAID THAT WITH SIGNATURE OF THE
IAEA/ EURATOM VERIFICATION AGREEMENT, THE FEDERAL GOVERN-
MENT WAS PROCEEDING TO SUBMIT BOTH THIS AGREEMENT AND
THE NPT FOR RATIFICATION BY THE GERMAN PARLIAMENTARY
BODIES. FOR BOTH LEGAL AND PRACTICAL REASONS, THE
GOVERNMENT WISHED TO EXTEND BOTH TREATIES TO WEST
BERLIN. WHILE REALIZING THE COMPLICATED LEGAL AND
POLITICAL QUESTIONS INVOLVED IN EXTENDING TO BERLIN
BOTH AGREEMENTS, WHICH DEALT DIRECTLY WITH MATTERS
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RESERVED FOR ALLIED AUTHORITY, BRAEUTIGAM SAID FONOFF
LEGAL EXPERTS BELIEVED THAT THE MATTER COULD BE
HANDLED THROUGH USE OF SO- CALLED MODIFIED BERLIN
CLAUSE IN THE ENABLING LEGISLATION AND THROUGH
EXPRESSION BY THE ALLIES IN AN APPROPRIATE BK/ L OF THE
RESERVATIONS THEY LEVIED ON APPLICATION OF THE
AGREEMENT IN BERLIN. ALLIED REPS UNDERTOOK TO REPORT
FRG VIEW. ACTION REQUESTED: DEPT AND USBER COMMENTS.
END SUMMARY.

1. BREAUTIGAM RECALLED THAT PRACTICAL ASPECTS OF THE
VERIFICATION AGREEMENT WERE TIED TO THE EURATOM
CONVENTION, WHICH HAD BEEN EXTENDED TO WEST BERLIN.
THIS PROVIDED AT LEAST ONE PRACTICAL REASON FOR
EXTENDING THE NPT AND VERIFICATION AGREEMENT ALSO. HE
ADDED THAT THE FEDERAL GOVERNMENT ALSO PLACED IMPORTANCE
ON MAINTAINING THE LEGAL UNITY BETWEEN THE FRG AND WEST
BERLIN BY EXTENDING ALL MAJOR TREATIES TO THE WSB.

2. BRAEUTIGAM PROVIDED THE FOLOWING ILLUSTRATIVE DRAFT
OF A BERLIN CLAUSE FOR THE ENABLING LEGISLATION AND THE
STATEMENT ON INCLUSION OF WEST BERLIN WHICH WOULD BE
MADE AT THE TIME OF FRG ACCESSION. HE NOTED THAT THEY
CLOSELY RESEMBLED THOSE USED WHEN THE FRG ACCEDED TO
THE SEABEDS TREATY, WHICH HAD ALSO BEEN EXTENDED TO
BERLIN:

A. BERLIN CLAUSE IN ENABLING LEGISLATION: " THIS
LAS IS ALSO VALID IN LADN BERLIN, PROVIDING THAT LAND
BERLIN CONFIRMS APPLICATION OF THE LAW, AND ON THE
CONDITION THAT ACCOUNT SHALL BE TAKEN OF THE
RIGHTS AND RESPONSIBILITIES OF THE ALLIED AUTHORITIES
AND OF THE AUTHORITY WHICH THEY EXERCISE IN THE AREAS
OF DISARMAMENT AND DEMILITARIZATION."

B. BERLIN DECLARATION UPON ACCESSION: " THIS AGREEMENT
IS ALSO APPLICABLE IN BERLIN (WEST) WITH VALIDITY FROM
THE DAY ON WHICH IT ENTERS INTO FORCE FOR THE FRG, ON
THE CONDITION THAT ACCOUJT SHALL BE TAKEN OF THE
RIGHTS AND RESPONSIBILITIES OF THE ALLIED AUTHORITIES
GDS

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RSR-01 /169 W

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AND OF THE AUTHORITY WHICH THEY EXERCISE IN THE AREAS
OF DISARMAMENT AND DEMILITARIZATION."

3. ALLIED REPS SAID THAT THE GERMAN PROPOSAL
SEEMED TO RAISE MANY LEGAL AS WELL AS POLITICAL
QUESTIONS WHICH WOULD HAVE TO BE STUDIED CAREFULLY
BEFORE A DECISION COULD BE MADE. BRAEUTIGAM SAID THE
FOREIGN OFFICE REALIZED THAT AN ANSWER COULD
NOT BE GIVEN QUICKLY, BUT ASKED ALLIED REPS TO REQUEST
AN OPINION FROM THEIR AUTHORITIES. HE SAID THE FEDERAL
GOVERNMENT WAS JUST BEGINNING TO PREPARE LEGISLATION
FOR SUBMISSION TO THE BUNDESTAG AND THAT IT WOULD
BE AT LEAST FOUR WEEKS BEFORE A DECISION WAS NEEDED.

4. EMBASSY COMMENT: FROM THE POINT OF VIEW OF THE
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SUBSTANCE OF THE TWO AGREEMENTS, WE FIND IT DIFFICULT
TO COMMENT ON THE TECHNICALITIES WHETHER ONE OR BOTH,
CAN OR SHOULD BE EXTENDED TO BERLIN. REGARDLESS OF THE
LEGAL INTRICACIES WHICH MAY BE INVOLVED, WE BELIEVE
THE FINAL DECISION OF THE THREE POWERS WILL HAVE TO
BE A POLITICAL ONE, BASED ON OUR JUDGMENT AS TO

WHETHER THE SCOPE OF THE NPT AND THE VERIFICATION
AGREEMENT CONTRADICTS OUR VIEW OF THE FRG- BERLIN
RELATIONSHIP OR IS LIKELY TO LEAD TO CHARGES FROM THE
USSR THAT THE QA HAS BEEN VIOLATED.
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*** Current Classification *** CONFIDENTIAL

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TAGS: PARM, PFOR, GW, WB, EEC, IAEA
To: BERLIN
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EUR
LONDON
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NATO BRUSSELS
PARIS

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